

P R O C E E D I N G S

COURTROOM SECURITY OFFICER: All rise.

THE COURT: Court calls for rearraignment,
Case No. 3:15-cr-496-L, United States of America versus
Jonathan Doyle.

MR. DE LE GARZA: John de le Garza and Errin Martin
here on behalf of the government.

MR. ROPER: Richard Roper and Jasmine Wynton for
Mr. Doyle.

THE COURT: Good morning. It probably would work
better, Mr. Roper, if you and Mr. Doyle approach the podium.
We can hear you better and pick you up better there.

Good morning, sir. Will you state your full
name, please?

THE DEFENDANT: Jonathan Vincent Doyle.

THE COURT: Mr. Doyle, will you raise your right hand
and be sworn, sir?

(Whereupon, the defendant was duly sworn.)

THE COURT: Mr. Doyle, you're now under oath and that
means that if you give any false answers to any of my
questions, those answers may later be used against you in a
prosecution for perjury or making a false statement.

Do you understand that, sir?

THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Sir, you have the right to proceed with
2 your proposed guilty plea before the district judge to whom
3 your case is assigned; and in your case that is District Judge
4 Sam A. Lindsay. You may, however, consent to entering your
5 guilty plea before me, the magistrate judge. It is your
6 choice, and either way it will be Judge Lindsay who sentences
7 you.

8 Do you understand that, sir?

9 THE DEFENDANT: Yes.

10 THE COURT: In your case I have received a written
11 consent to proceed before me, the magistrate judge, with your
12 guilty plea and it appears you've signed that.

13 I'm showing it to you now. Is that your
14 signature?

15 THE DEFENDANT: Yes.

16 THE COURT: Before you signed the consent, did you
17 discuss with Mr. Roper your right to consent or not to give
18 your consent to enter your guilty plea before me?

19 THE DEFENDANT: Yes.

20 THE COURT: And do you understand that right?

21 THE DEFENDANT: Yes.

22 THE COURT: And do you give your consent to proceed
23 with your guilty plea before me?

24 THE DEFENDANT: Yes.

25 THE COURT: Sir, you may, if you choose -- first of

1 all, let me say that I do find that you've knowingly and
2 voluntarily waived your right to enter a guilty plea before the
3 district judge and consented to entering your guilty plea
4 before me, the magistrate judge.

5 Mr. Doyle, you may, if you choose, plead not
6 guilty to any offense charged against you or persist in a plea
7 of not guilty if one has already been made; and if you plead
8 not guilty, the Constitution of the United States guarantees
9 you the following rights:

10 The right to a speedy and public trial by a
11 jury in this district; the right at such trial for you to see,
12 hear and cross-examine all witnesses against you; the right to
13 use the power and process of the Court to compel the production
14 of any evidence, including the attendance of any witnesses in
15 your favor; the right to have the assistance of an attorney
16 throughout all stages of your case; and the right to have an
17 attorney appointed to represent you should you be unable to
18 obtain an attorney.

19 At such trial, you could not be compelled to
20 testify and whether you would, in fact, testify is a matter in
21 which your judgment alone would control. And at such trial,
22 the government would be required to prove your guilt beyond a
23 reasonable doubt before you could be convicted; and if you are
24 convicted, you would have the right to appeal your conviction.

25 Sir, do you understand that you have and are

1 guaranteed each of these constitutional rights?

2 THE DEFENDANT: Yes.

3 THE COURT: On the other hand, Mr. Doyle, if you plead
4 guilty and your guilty plea is accepted, there will not be a
5 further trial of any kind. So by pleading guilty, you waive
6 your right to trial as well as those other constitutional
7 rights associated with trial that I've just explained to you
8 except, of course, your right to always be represented by an
9 attorney.

10 Do you understand, sir?

11 THE DEFENDANT: Yes.

12 THE COURT: Mr. Doyle, generally a defendant who is
13 accused of a crime cannot plead guilty unless he is actually
14 guilty of that criminal offense. Also in federal court it is
15 the Judge who determines the penalty if a defendant is
16 convicted and that's whether the conviction comes upon the
17 defendant's guilty plea or the return of a guilty verdict by a
18 jury.

19 Now, the Court has not and will not talk to
20 anyone about the facts of your case except in open court where
21 you and your attorneys and the representatives of the
22 government are all present. However, if a guilty verdict is
23 returned or a guilty plea is entered, a presentence report will
24 be prepared by a probation officer to assist Judge Lindsay at
25 sentencing; and Judge Lindsay will go over that presentence

1 report with the probation officer outside of your presence.

2 Also, you will likely be asked to give
3 information for that report and your degree of cooperation
4 could be a factor in how severe your sentence is; and it's for
5 that reason that the Court orders your attorney or attorneys to
6 be present at the interview with the probation officer who
7 prepares that pretrial services report.

8 Sir, if you plead guilty, you will be
9 convicted. However, you and your attorney will each be given
10 the opportunity to present to Judge Lindsay any pleas for
11 leniency. The penalty will be decided on the basis of the
12 facts that are heard in court and so you should never depend or
13 rely upon any statement or promise by anyone -- whether they be
14 connected with law enforcement, the government, or anyone else
15 for that matter -- as to what sentence will be assessed against
16 you.

17 Should you decide to plead guilty, your guilty
18 plea must not be induced or prompted by any promises, pressure,
19 threats, force or coercion of any kind -- that's because a
20 guilty plea must be purely voluntary. And so you should plead
21 guilty because you are guilty and for no other reason.

22 Mr. Doyle, do you understand each of my
23 explanations about the process and consequences of pleading
24 guilty?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Sir, under the Sentencing Reform Act of
2 1984 as construed by the United States Supreme Court, the
3 United States Sentencing Commission has issued advisory
4 guidelines for judges to consider in determining the
5 appropriate sentences in criminal cases.

6 Have you discussed with your attorney or your
7 attorneys the charges against you, the matter of sentencing,
8 and how the sentencing guidelines might apply in your case?

9 THE DEFENDANT: Yes.

10 THE COURT: Even so, sir, I am required to inform you
11 that it's the Court's obligation to calculate the applicable
12 sentencing guideline range and to consider that range as well
13 as any possible departures under the sentencing guidelines and
14 other sentencing factors that are found in 18, United States
15 Code, Section 3553(a).

16 Now, the Court is not bound by facts that are
17 stipulated between you and your attorney on the one hand and
18 the government on the other. The Court can impose punishment
19 that disregards the stipulated facts or that even takes into
20 account facts that were not stipulated to; and in that event,
21 you might not even be permitted to withdraw your guilty plea.

22 Now, the Court will not be able to decide or
23 determine what guideline range is appropriate in your case
24 until after that presentence report I mentioned has been
25 completed and you, through your attorney, and the government

1 have had the opportunity to challenge the facts and conclusions
2 reported by the probation officer in the presentence report.

3 After the Court has determined what guideline
4 range is appropriate under the facts of your case, the Court
5 has the authority to impose a sentence that is within, above,
6 or below that guideline range, so long as the sentence imposed
7 is reasonable and based on the facts and the law.

8 Sir, you have the right to appeal the sentence
9 the Court imposes unless you waive that right; and under some
10 circumstances, the government also has the right to appeal.

11 You should also know that within the federal
12 system, parole has been abolished. That means that if you are
13 sentenced to a term of imprisonment, you will not be released
14 on parole.

15 Mr. Doyle, do you understand each of the
16 explanations I've given you regarding sentencing?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Mr. Doyle, how old are you?

19 THE DEFENDANT: 40.

20 THE COURT: And in what year were you born?

21 THE DEFENDANT: 1978.

22 THE COURT: How far did you go in school, sir?

23 THE DEFENDANT: Master's degree.

24 THE COURT: Then you obviously read, write and
25 understand English; is that correct?

1 THE DEFENDANT: That's correct.

2 THE COURT: Sir, within the last six months, have you
3 received treatment or care from a medical professional for any
4 mental health or physical health condition?

5 THE DEFENDANT: (Conferring privately with counsel.)

6 MR. ROPER: Your Honor, he's taking antianxiety
7 medication; and that's it. He doesn't have a mental disease or
8 defect.

9 THE COURT: Mr. Doyle, have you been taking the
10 medication as it's been prescribed for you?

11 THE DEFENDANT: I believe so.

12 MR. ROPER: As needed.

13 THE DEFENDANT: As needed.

14 THE COURT: Is there anything about your condition
15 you're being treated for or the medication that you've been
16 prescribed that's causing you any difficulty in fully
17 understanding what's going on here this morning?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Is there anything about your condition or
20 the medication you've been prescribed that has caused you any
21 difficulty in consulting with your attorney or attorneys about
22 your case?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Have you been hospitalized or treated for
25 addiction to drugs or alcoholism within the last six months?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: Are you now under the influence of alcohol
3 or any kind of drug that's not been prescribed for you?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Sir, are you of sound mind; and do you
6 fully understand what it is we're doing here today?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And is it your understanding that you're
9 here for the purpose of pleading guilty to Count 7 of the
10 superseding indictment, which charges you with conspiring to
11 introduce misbranded food into interstate commerce with an
12 intent to defraud and mislead?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Mr. Roper, do you have any reason to
15 believe that Mr. Doyle is not fully competent to enter a plea?

16 MR. ROPER: No, Your Honor, I believe he's competent.

17 THE COURT: Do you believe that the plea of guilty he's
18 proposing to make will be a knowing and voluntary plea?

19 MR. ROPER: Yes, Your Honor.

20 THE COURT: Mr. Doyle, did you receive a copy of that
21 superseding indictment?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And did you read the charges, specifically
24 Count 7?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Did you also discuss the charges,
2 specifically Count 7, with your attorney?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you know and understand what you're
5 charged with by the indictment then?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Even so I will require that the charge be
8 read aloud here in open court unless you choose to waive the
9 reading.

10 THE DEFENDANT: I'll waive it, Your Honor.

11 THE COURT: Sir, you also have the right to have
12 explained to you the essential elements of the charge to which
13 you're proposing to plead guilty; that is, what the government
14 would be required to prove beyond a reasonable doubt if you
15 were to go to trial before you could be convicted of the charge
16 in Count 7 of the superseding indictment.

17 At this time I am going to call upon the
18 Assistant United States Attorney to state those essential
19 elements.

20 MR. DE LA GARZA: Your Honor, the essential elements of
21 the offense to which Mr. Doyle is pleading guilty -- that is,
22 18, USC, Section 371, conspiracy to introduce misbranded food
23 into interstate commerce with the intent to defraud and
24 mislead -- the government must prove each of the following
25 elements beyond a reasonable doubt:

1 First, that the defendant and at least one
2 other person made an agreement to commit the crime of
3 introducing misbranded food into interstate commerce with an
4 intent to defraud or mislead as charged in the superseding
5 indictment.

6 Second, that the defendant knew the unlawful
7 purpose of the agreement and joined in it willfully; that is,
8 with the intent to further the unlawful purpose.

9 And third, that one of the conspirators during
10 the existence of the conspiracy knowingly committed at least
11 one of the overt acts described in the superseding indictment
12 in order to accomplish some object or purpose of the
13 conspiracy.

14 The elements of introducing misbranded food in
15 interstate commerce with an intent to defraud, a violation of
16 Title 21, USC, Section 331(a) and 21, USC, Section 333(a)(2)
17 are as follows:

18 First, that the substance was a misbranded
19 food.

20 Second, that a person caused the introduction
21 of or delivered for introduction into interstate commerce
22 misbranded food.

23 Third, that the food's label was false or
24 misleading in any particular manner.

25 And, fourth, that a person mislabeled the food

1 with an intent to defraud and mislead.

2 THE COURT: Mr. Doyle, you've heard those essential
3 elements stated aloud. Do you understand what they are?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Sir, do you admit that each of those
6 essential elements is satisfied as to Count 7 of the
7 superseding indictment by your conduct and/or the conduct of
8 another or others for whom you are criminally responsible?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Sir, you are appearing here today with
11 Mr. Roper as your attorney; and have you been fully satisfied
12 with the representation and advice you have received from him
13 and your other attorneys in this case?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Sir, do you have in front of you copies of
16 the plea agreement, the one that was filed on February 15th,
17 the plea agreement supplement also filed that day, and the
18 factual resume likewise filed on February 15th in front of you?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Sir, would you look first at that plea
21 agreement supplement. It appears that you've signed that
22 document on the second and third pages. Are those your
23 signatures?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Before you signed the plea agreement

1 supplement, did you read it in its entirety and discuss it in
2 detail with one or more of your attorneys?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you know and understand then all the
5 terms of your agreement with the government as set out in that
6 plea agreement supplement?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Sir, I'm going to ask you the same
9 questions about the plea agreement. It appears that you've
10 signed it on Page 11 and -- I'm sorry on Page 12. Is that your
11 signature there?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Before you signed that plea agreement, did
14 you likewise read it in its entirety and discuss it in detail
15 with one or more of your attorneys?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And do you understand fully then the terms
18 of your agreement with the government as set out in that
19 written plea agreement?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Specifically, sir, I'm going to ask you to
22 look at Page 4 at the bottom, paragraph 8, entitled:
23 "Forfeiture of Property" that continues on to Page 7 of the
24 plea agreement in which you are indicating or agreeing that you
25 will not contest, challenge or appeal the administrative or

1 judicial forfeiture to the government of property seized or
2 restrained by the government and related to this case or noted
3 as subject to forfeiture, including certain monies and
4 automobiles that are specifically listed in that paragraph.

5 Is that your basic understanding of that
6 provision of your plea agreement?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And when you were going over that in
9 particular with Mr. Roper and/or your other attorneys, did he
10 or they explain to you the rights the law gives you to appeal,
11 to challenge, to contest any forfeiture of your property to the
12 government?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand those rights, sir?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And do you agree to waive them or give them
17 up to the extent it states in paragraph 8 of your plea
18 agreement with the government?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: I'm going to next ask you to look on Page 9
21 of the plea agreement at the paragraph numbered I, entitled:
22 "Waiver of Right to Appeal or Otherwise Challenge Sentence," in
23 which it appears you are agreeing to do basically that -- to
24 waive your right to appeal and to otherwise challenge your
25 sentence and conviction except under the very limited

1 circumstances that are set out in the fourth and last line of
2 that paragraph that starts: "The defendant, however, reserves
3 the rights."

4 Do you see what I'm reading from, sir?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And is that your basic understanding of
7 that provision of your plea agreement with the government?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And before you signed the plea agreement,
10 did Mr. Roper or your other attorneys explain to you the rights
11 that you have under the law to appeal and to otherwise
12 challenge your sentence and conviction in this case?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand those rights, sir?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And do you agree to waive or give them up
17 to the extent it states in your plea agreement with the
18 government?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Sir, are all the terms of your agreement
21 with the government set out in the written plea agreement and
22 the written plea agreement supplement?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And did you voluntarily and of your own
25 freewill enter into the plea agreement and plea agreement

1 supplement?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Sir, other than the plea agreement and plea
4 agreement supplement, has anyone made any promise or assurance
5 to you of any kind in an effort to induce you to plead guilty?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Has anyone mentally, physically or in any
8 other way attempted to force you to plead guilty?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Mr. Doyle, do you understand that if your
11 guilty plea is accepted, you will be found guilty of the
12 offense charged by Count 7 of the superseding indictment and
13 that your punishment for that offense will be assessed
14 somewhere within the range of punishment provided by law?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Sir, are you a citizen of the
17 United States?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Then you should understand because you're
20 proposing to plead guilty to a felony offense that conviction
21 of a felony may deprive you of valuable rights of citizenship,
22 including the right to vote, to hold public office, to serve on
23 a jury, and to possess any kind of firearm. Do you understand
24 that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: In addition to that, I'll now call upon the
2 Assistant United States Attorney to state the other potential
3 penalties and consequences you face if you plead guilty to
4 Count 7 of the superseding indictment.

5 THE DEFENDANT: Your Honor, the maximum penalties the
6 Court can impose for the offense to which Mr. Doyle is pleading
7 guilty is imprisonment for a period not to exceed five years; a
8 fine not to exceed 250,000 or twice any pecuniary gain to the
9 defendant or loss to the victims; a term of supervised release
10 of not more than three years, which may be mandatory under the
11 law and will follow any term of imprisonment; if the defendant
12 violates the conditions of supervised release, the defendant
13 can be imprisoned for the entire term of supervised release; a
14 mandatory special assessment of \$100; restitution to victims or
15 to the community, which is mandatory under the law and which
16 the defendant agrees may include restitution arising from all
17 relevant conduct, not limited to that arising from the offense
18 of conviction alone; cost of incarceration and supervision; and
19 forfeiture of property.

20 THE COURT: Mr. Doyle, do you understand that if you
21 plead guilty to Count 7 of the superseding indictment, you are
22 subject to all of those penalties and consequences just
23 explained to you?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Sir, do you understand that if the sentence

1 you receive is more severe than you expect, you will still be
2 bound by your guilty plea and you will have no right to
3 withdraw it?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you have any questions about that or
6 anything else that we've covered today?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Then, Mr. Doyle, how do you plead to
9 Count 7 of the superseding indictment? Guilty or not guilty?

10 THE DEFENDANT: Guilty, Your Honor.

11 THE COURT: Mr. Roper, is Mr. Doyle's guilty plea
12 consistent with your legal advice?

13 MR. ROPER: Yes, Your Honor.

14 THE COURT: And, Mr. Doyle, I will recommend that
15 Judge Lindsay accept your guilty plea on the condition that
16 there's a factual basis to support it; and in your case that
17 factual basis is supplied by the stipulated facts in the
18 factual resume on Pages 2 through 8.

19 Would you look at Page 9 of that factual
20 resume, which is the last page? Is that your signature there,
21 sir?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Before you signed the factual resume, did
24 you read it in its entirety, sir?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And did you also discuss it in detail with
2 one or more of your attorneys?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Then do you know and understand what is
5 contained in the factual resume and specifically what's in the
6 stipulated facts section on Pages 2 through 8?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Sir, at this time it would be appropriate
9 to have the stipulated facts read aloud here in court.
10 However, based on your knowledge and understanding of them, I
11 will permit you to waive the reading if you choose.

12 Would you like to have the stipulated facts
13 read aloud or to waive the reading?

14 THE DEFENDANT: Waive, please, Your Honor.

15 THE COURT: Sir, do you admit that the stipulated facts
16 in the factual resume are true?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Mr. Roper, are the stipulated facts in the
19 factual resume consistent with the true facts as you understand
20 them?

21 MR. ROPER: They are.

22 THE COURT: Mr. Doyle, based on my review of the
23 stipulated facts and my satisfaction with the responses given
24 during this hearing, I find that you are fully competent and
25 capable of entering an informed plea and that your guilty plea

1 to Count 7 of the superseding indictment is a knowing and
2 voluntary plea, supported by an independent basis in fact,
3 containing each of the essential elements of the offense
4 charged by Count 7 of the superseding indictment.

5 And, therefore, sir, I am recommending that
6 Judge Lindsay accept your guilty plea and pronounce you guilty
7 of that offense.

8 Mr. Doyle, I'm making that recommendation in a
9 written report that I am issuing today. That report also
10 summarizes what was said and done here today and my findings
11 and conclusions.

12 Any objection to my written report must be
13 filed within 14 days of today.

14 Sir, you are scheduled to be sentenced by
15 Judge Lindsay on August 5th at 1:30 P.M.; and the presentence
16 report issuance deadline is June 7th.

17 I've not received a report from Pretrial
18 Services that you've had any difficulty with fully complying
19 with the conditions of release set in your case.

20 Does the government have any or know of any
21 reason why Mr. Doyle should not be continued on pretrial
22 release?

23 MR. DE LA GARZA: No, Your Honor, the government knows
24 of no reason.

25 THE COURT: Mr. Doyle, based on those circumstances, I

1 find by clear and convincing evidence that you are not likely
2 to flee or pose a danger to any other person or the community
3 if continued on release; and, therefore, I am ordering that you
4 be continued on release pending your sentencing hearing and any
5 further proceedings in your case.

6 Is there anything else to take up with
7 Mr. Doyle's case today?

8 MR. DE LA GARZA: Nothing from the government,
9 Your Honor.

10 MR. ROPER: No, Your Honor.

11 THE COURT: Then, Mr. Doyle, that concludes your
12 hearing today, sir.

13 MR. ROPER: I'm sorry. One second.

14 (Conferring privately with defendant.)

15 THE DEFENDANT: Sorry, Your Honor.

16 MR. ROPER: No, Your Honor, we have nothing else.

17 THE COURT: Well, then that concludes your hearing
18 today, sir. Good luck to you.

19 And the attorneys are excused.

20 THE COURTROOM SECURITY OFFICER: All rise.

21 (WHEREUPON, the proceedings were adjourned.)
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REPORTER'S CERTIFICATE

I, Lanie M. Smith, CRR, RPR, Official Court Reporter, United States District Court, Northern District of Texas, do hereby certify that the foregoing is a true and correct transcript, to the best of my ability and understanding, from the record of the proceedings in the above-entitled and numbered matter.

/s/ Lanie M. Smith
Official Court Reporter